

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
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	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
	)	
AT&T Corp. Request For Waiver of the Annual True-up Process for 2003 Universal Service Contributions	)	DA 04-241
	)	

**OPPOSITION OF VERIZON WIRELESS**

The Commission should not grant special relief to AT&T. Instead, the Commission should clarify the true-up process to exempt all carriers' first quarter revenues from the true-up calculation, because the first quarter 2003 revenues were not used in any manner to calculate carrier contributions to the Universal Service Fund.

AT&T argues that the changes made to the 2003 contribution process which direct USAC to subtract projected first quarter revenues from actual 2003 annual revenues in calculating contribution true-ups, will "penalize carriers such as AT&T that had under-projected first quarter 2003 results."<sup>1</sup> It wants the Commission to allow USAC "to subtract AT&T's actual 2003 first quarter revenues from its actual revenues for calendar year 2003 revenues [sic]" to determine the contribution for the second through fourth quarter of the year.<sup>2</sup>

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<sup>1</sup> AT&T Petition for Waiver at 5 (filed Jan. 27, 2004).

<sup>2</sup> *Id.* at 2

AT&T has shown no unique circumstances that justify special treatment. WorldCom sought the same relief in its 2003 reconsideration petition, noting that “[c]arriers never actually contribute to universal service on the basis of first quarter 2003 revenues and yet they could be penalized for mis-projecting these revenues.”<sup>3</sup> WorldCom asked the Commission either to base 2003 true-ups on only the second through fourth quarters (comparing projected to actual revenues for those quarters) or to allow use of actual first quarter revenues, rather than projections, for the first quarter if true-up is to be based on revenues for the entire year.<sup>4</sup>

In its reconsideration order, the Commission stated that “the true-up for calendar year 2003 revenues will not apply to revenues projected for the first quarter of 2003” but then instructed USAC to “subtract revenues projected for the first quarter of 2003 from annual revenues reported on the FCC Form 499-A to arrive at an estimate of a contributor’s actual revenues for the second through fourth quarters of 2003.”<sup>5</sup> The problem is that use of projected first quarter revenues would penalize companies that under-projected those revenues, and reward companies that over-projected their revenues, even though the first quarter revenues were irrelevant to any company’s payment obligation. The Commission should now clarify its true-up procedures by revising its instructions to USAC to base the true-up only on second through fourth quarter 2003 revenues. No carrier can claim legitimate harm from such an administrative clarification since no carrier made a payment based upon its first quarter 2003 revenues.

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<sup>3</sup> WorldCom, Inc., Petition for Reconsideration at 3 (filed Jan. 29, 2003).

<sup>4</sup> *Id.* at 3-4.

<sup>5</sup> *Id.*

The key principle the Commission should apply is that carriers should neither benefit nor lose due to the effects of transitioning from an historical based system to a projected based system. Correcting the situation for under-projecting carriers would solve only half of the problem. Allowing carriers that over-projected revenues to subtract their estimate from their actual annual revenues would result in under-payment by those carriers and a shifting of burdens to other carriers and their customers (and possibly a shortfall to the Fund). Since USF charges are ultimately borne by consumers, the FCC should not sanction true-ups that are anything but true. Instead, the Commission can ensure that carriers pay their obligations based on actual revenues by truing-up only the revenues from the second, third and fourth quarters of 2003.

In considering AT&T's waiver request, the Commission should keep in mind that AT&T's significant under-projection of its own revenues during the first quarter 2003 occurred while it was contending that revenues were inadequate and declining in the Commission's proceeding on USF contribution methodology. AT&T's first quarter 2003 projections were due on February 1, 2003 and its first quarter Form 499Q (which reported actual first quarter revenues) was due on May 1, 2003, less than two weeks after AT&T filed its combined reply comments on the *Second FNPRM* on the contribution methodology and its initial comments on the USF Staff Studies.<sup>6</sup> In that filing, AT&T made its oft-repeated argument that "the universal service funding system is on a steady, identifiable path to collapse"<sup>7</sup> in large part as a result of "an ever-diminishing contribution base."<sup>8</sup> AT&T's arguments in this regard have been based on projected

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<sup>6</sup> AT&T's *SFNPRM* Reply Comments and Comments on the Staff Study, CC Docket No. 96-45 (filed April 18, 2003).

<sup>7</sup> *Id.* at iii.

<sup>8</sup> *Id.* at 12.

trends in interstate end-user telecommunications revenues.<sup>9</sup> Yet the reliability of AT&T's assertions about the decline in interstate end-user telecommunications revenues must be viewed with a careful eye since AT&T significantly underestimated its *own* revenues during the same time period.

Indeed, while AT&T was under-projecting its own revenue on its first-quarter Form 499Q, AT&T emphasized in comments to the Commission that “*the contribution factor could easily move above 14 percent in only a few years, unless the contribution mechanism is changed.*”<sup>10</sup> Almost a year has passed since AT&T made this statement, and in this time the contribution factor has in fact *declined* to 8.7%. As the rulemaking

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<sup>9</sup> See, e.g., *id.* at 7-12; Comments of AT&T Corp, CC Docket No. 96-45 (filed Feb. 28, 2003) at 13-15. AT&T also argues that the revenue-based contribution methodology is threatened by growth in the high cost fund.

<sup>10</sup> AT&T's *SFNPRM* Reply Comments and Comments on the Staff Study, *supra*, at 12 (emphasis in original).

proceeding remains pending, the Commission should consider how AT&T's revenue-projection error reflects on the credibility of its "death spiral" arguments and re-examine any Staff analysis that may have utilized projections from AT&T on interstate revenue trends. As Verizon Wireless consistently has maintained, the revenue-based contribution mechanism is both equitable and sustainable.

Respectfully submitted,

**VERIZON WIRELESS**

By: John T. Scott, III  
John T. Scott, III  
Vice President and  
Deputy General Counsel – Regulatory Law

Anne E. Hoskins  
Regulatory Counsel

Verizon Wireless  
1300 I Street, N.W.  
Suite 400 West  
Washington, D.C. 20005

February 27, 2004